

JOSEPH T. MCNALLY  
Acting United States Attorney  
LINDSEY GREER DOTSON  
Assistant United States Attorney  
Chief, Criminal Division  
SCOTT PAETTY (Cal. Bar No. 274719)  
Assistant United States Attorney  
Deputy Chief, Major Frauds Section  
1100 United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012  
Telephone: (213) 894-6527  
Facsimile: (213) 894-6269  
E-mail: scott.paetty@usdoj.gov

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER KAZUO KAMON,

Defendant.

No. CR 23-47-JLS-2

CR 23-24-JLS-1

GOVERNMENT'S SENTENCING POSITION;  
DECLARATION OF SCOTT PAETTY;  
SEALED EXHIBIT

Hearing Date: April 11, 2024

Location: Courtroom of the  
Hon. Josephine L.  
Staton

Plaintiff United States of America, by and through its counsel of record, the Acting United States Attorney for the Central District of California and Assistant United States Attorney Scott Paetty, hereby files its sentencing position for defendant Christopher Kamon in the above referenced cases.

This position is based upon the attached memorandum of points and authorities, the presentence report, the testimony and exhibits introduced during the 13-day trial of co-defendant Thomas Vincent Girardi, the declaration of Scott Paetty and accompanying exhibit,

1 the files and records in this case, and such further evidence and  
2 argument as the Court may permit.

3 Dated: March 28, 2025

Respectfully submitted,

4 JOSEPH T. MCNALLY  
United States Attorney

5 LINDSEY GREER DOTSON  
6 Assistant United States Attorney  
7 Chief, Criminal Division

8 /s/  
SCOTT PAETTY  
9 Assistant United States Attorney

10 Attorneys for Plaintiff  
11 UNITED STATES OF AMERICA  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant Christopher Kazuo Kamon ("defendant" or "Kamon")  
4 played an essential role in the long-running fraud scheme lead by co-  
5 defendant Thomas Girardi ("Girardi"). As the head of accounting at  
6 Girardi Keese for nearly two decades, defendant was the gatekeeper of  
7 the firm's bank accounts and enabled Girardi's manipulation of those  
8 accounts and lies to the firm's clients about their settlement funds.  
9 Defendant facilitated Girardi's use of stolen client funds to pay  
10 extravagant personal expenses and make Ponzi-like payments to other  
11 clients and vendors in a doomed effort to keep Girardi Keese afloat  
12 until the house of cards fell in late 2020. Time and time again,  
13 defendant looked the other way when Girardi instructed defendant to  
14 steal client funds. But Kamon did more than just aid and abet  
15 Girardi in the theft of client funds from the firm's trust accounts.  
16 Despite making hundreds of thousands of dollars in yearly salary,  
17 defendant conceived, directed, and concealed a separate fraud scheme  
18 that pilfered millions of dollars from the firm's operating accounts,  
19 over which defendant had control.

20 Kamon's brazen side fraud, engineered to fund his own lavish  
21 lifestyle evinces the same cynical, devious, and cavalier approach  
22 exhibited by Girardi that ultimately destroyed Girardi Keese.  
23 Defendant has pleaded guilty to two wire fraud counts related to  
24 these schemes. He also faces criminal charges in Chicago for similar  
25 conduct in that jurisdiction. Although there is no evidence that  
26 defendant lied to Girardi Keese clients like co-defendant Girardi  
27 did, defendant's criminal conduct was integral to the scheme and  
28

1 caused irreparable damage to Girardi Keese clients and ultimately  
2 hastened the demise of Girardi Keese. This conduct warrants a  
3 significant custodial sentence.

4 Therefore, consistent with the plea agreement in this case, for  
5 defendant's role as an aider and abettor to Tom Girardi in case  
6 number 23-47-JLS (the "main fraud scheme"), for his role in devising  
7 and carrying out the fraud scheme in case number 23-24-JLS (the "side  
8 fraud scheme"), and for the following reasons, the government submits  
9 that a sentence that includes 121 months imprisonment, a restitution  
10 order in the total amount of \$8,903,324.26, three years of supervised  
11 release, and a special assessment of \$200 is justified and  
12 appropriate.

## 13 **II. DEFENDANT'S OFFENSE CONDUCT AND CRIMINAL CONVICTIONS**

14 The following summary of defendant's offense conduct is based on  
15 facts stated in the presentence report ("PSR") ¶¶ 18-100.<sup>1</sup>

### 16 1. Defendant's Background as Head of Accounting at 17 Girardi Keese

18 Although defendant had no formal training in accounting, he was  
19 head of the accounting department at Girardi Keese from 2004 to  
20 December 2020 when the firm closed and was forced into bankruptcy.  
21 Kamon acted as defendant's right-hand man when it came to the  
22 management the firm's bank accounts, finances, and record keeping  
23 related to the firm's clients and the money that was owed them.  
24 Defendant had access to and awareness of all firm bank account  
25

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26  
27 <sup>1</sup> Facts taken from sources other than the PSR are noted in  
28 separate parenthetical citations. Defendant's criminal conduct in  
both the main fraud scheme and the side fraud scheme was also the  
subject of extensive testimony and other evidence during the 13-day  
trial of co-defendant Girardi.

1 balances, including its attorney-client trust accounts at Nano Bank  
2 and Torrey Pines Bank. Defendant also had signatory authority and  
3 control over the Girardi Keese operating accounts. Girardi dictated  
4 which clients would be paid, how much they would be paid and when,  
5 and Girardi signed all checks from the client trust accounts;  
6 however, these transactions required defendant's involvement to  
7 execute. If Girardi had a question about account balances or  
8 payments due to clients or other vendors, Girardi went to defendant.

9 During Girardi's recent criminal trial a witness from the  
10 accounting department, N.R., testified that Girardi called defendant  
11 "my guy in accounting". (Dkt. 377 at 26.<sup>2</sup>) Girardi would contact  
12 defendant each morning and asked for the balances of the firm's bank  
13 accounts, including the trust accounts. When the firm's operating  
14 accounts were running low, defendant would inform Girardi, who would  
15 instruct defendant to take money from the firm's client trust  
16 accounts and send it to the operating accounts. Girardi would  
17 identify what case to debit the funds from and tell defendant to code  
18 the transfer as "attorney's fees". If defendant informed Girardi  
19 that fees had already been taken from the case, Girardi would tell  
20 defendant to "do it anyways". Although defendant knew that the trust  
21 accounts should be used to promptly pay clients and draw the firm's  
22 fees and costs from those client settlement funds when appropriate,  
23 defendant knew that a common practice at Girardi Keese was for  
24 Girardi to tell defendant to transfer attorney's fees from a case in  
25 which fees had already been taken. N.R. said that she never heard  
26  
27

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28 <sup>2</sup> Pagination refers to the CM/ECF header.



1 defendant refuse to carry out an order regarding money transfers  
2 given to him by Girardi. (Dkt. 377 at 34.)

3 **B. The Main Fraud Scheme**

4 Co-defendant Girardi was the architect and driver of the main  
5 fraud scheme in which client settlement funds would be  
6 misappropriated after Girardi made an assortment of  
7 misrepresentations and/or material omissions to the clients, such as  
8 misrepresenting and omitting the true value of the settlement, lying  
9 about reasons for delaying payment, and then using the money for  
10 other purposes. These improper purposes included making Ponzi-like  
11 payments to other Girardi Keese clients whose settlement funds had  
12 already been stolen, paying the firm's payroll and other expenses,  
13 and paying personal expenses for Girardi, other Girardi Keese  
14 attorneys, and defendant. Although Girardi led the main fraud  
15 scheme, defendant played an integral and essential role. The charged  
16 conduct focused on the theft of settlement funds related to five  
17 clients in four cases.<sup>3</sup> These cases are discussed in detail in  
18 paragraphs 28 to 51 of the presentence report and on pages 8-11 of  
19 the government's sentencing position for co-defendant Girardi (Dkt.  
20 419). Relevant facts pertaining to defendant's involvement in the  
21 four charged cases are discussed below.

22 1. Victim 1

23 Victim 1 was badly burned in a gas explosion that killed his  
24 girlfriend and destroyed his home. After Girardi's initial lie to  
25 Victim 1 and his family about the true value of their settlement  
26 (Girardi told them the case settled for just over \$7 million when the  
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28 <sup>3</sup> An additional victim, V.A., was also identified as discussed  
in PSR ¶¶ 52.

1 true value was \$53 million), a wire for \$28 million was sent to the  
2 Torrey Pines trust account. Defendant received notice of that  
3 payment. Instead of paying Victim 1 and his family the money they  
4 were due, those funds were used to pay other firm clients. Defendant  
5 then aided and abetted Girardi in the fraud against Victim 1 by  
6 sending, at Girardi's direction, a series of lulling payments  
7 purportedly sourced from a separate interest bearing account that  
8 defendant well knew did not exist. Nearly six years later, after  
9 years of efforts by Victim 1 and his family to get paid the money  
10 they were owed, defendant, at Girardi's direction, sent a \$2.5  
11 million check sourced from a different client's settlement funds to  
12 Victim 1.

13 2. Victim 2

14 Victim 2 was a widow whose husband died in a boating accident.  
15 Girardi Keese received a \$504,400 settlement check for Victim 2's  
16 wrongful death claim. At Girardi's direction, defendant transferred  
17 approximately \$183,000 from the Torrey Pines trust account to a  
18 Girardi Keese operating account and coded it as "fees" when defendant  
19 knew that attorney's fees on Victim 2's case had already been taken  
20 out. (See Trial Ex. 245, Victim 2 Case Card Register.) Defendant  
21 then used those funds to pay the firm's payroll and wrote a \$50,000  
22 check to Girardi which was used to make payments to two exclusive  
23 golf country clubs. Defendant further aided and abetted Girardi's  
24 efforts to defraud Victim 2 by sending a series of lulling payments  
25 to her comprised of funds sourced from other client settlements, not  
26 her own.

1                   3.     Victim 3

2             Victim 3 retained Girardi Keese to represent her in a defective  
3 medical device claim. After receiving Victim 3's \$128,250 settlement  
4 into the Torrey Pines trust account, defendant aided and abetted  
5 Girardi in the theft of those funds by using those funds to pay for  
6 leases of luxury cars, instead of paying Victim 3. Victim 3 to this  
7 day has never received any money from Girardi Keese. (Dkt. 366 at  
8 63.)

9                   4.     Victim 4 and 5

10            Victims 4 and 5 retained Girardi Keese to represent them in a  
11 lawsuit related to a car accident that injured them and killed their  
12 minor son. Prior to the initial \$4 million payment on a \$17.5  
13 million settlement being received into the Nano Bank trust account,  
14 Girardi instructed defendant to take an improper "advance" on those  
15 funds and transfer them to the firm's operating account to pay firm  
16 expenses, even though defendant knew that those funds belonged to  
17 other clients. At Girardi's direction, defendant later caused a \$2.5  
18 million check comprised in large part of Victims 4 and 5's settlement  
19 funds to be paid to Victim 1, whose settlement funds had already been  
20 stolen as described above. In addition to these acts, defendant,  
21 again at Girardi's direction, sent a series of incremental lulling  
22 payments to Victims 4 and 5, which represented on a fraction of the  
23 total settlement due them.

24                   5.     Victim V.A.

25            An additional victim, V.A., retained Girardi Keese to represent  
26 her in a claim related to her injuries in a car accident. (See PSR  
27 ¶ 52.) The case settled for approximately \$6 million. After  
28 attorney's fees and costs, V.A. was to be paid approximately \$3

1 million. After failing to pay V.A. the money owed to her, Girardi  
2 and defendant caused a series of lulling payments that resulted in a  
3 balance due to V.A. of approximately \$1.2 million.

4 **C. The Side Fraud Scheme**

5 As described above, defendant acted as a de facto apprentice to  
6 Girardi's main fraud scheme for nearly a decade. Additionally,  
7 beginning at least as early as 2013 and continuing until Girardi  
8 Keese closed in December 2020, defendant orchestrated a brazen theft-  
9 within-a-theft, side fraud designed to steal money from Girardi  
10 Keese. (See PSR ¶¶ 53-59.) Using his position as head of accounting  
11 with privileged access to and control over the firm's operating  
12 accounts, defendant embezzled funds from the firm's operating  
13 accounts to enrich himself and others. To carry out the scheme,  
14 defendant recruited co-schemers such as I.B. and N.R. to pose as  
15 purported vendors.<sup>4</sup> At defendant's direction, I.B. submitted  
16 numerous fake invoices to Girardi Keese, which defendant paid out of  
17 the firm's operating accounts. Defendant concealed these fake  
18 invoices by referring to them as payment for work purported done by  
19 I.B. for the benefit of Girardi Keese. In truth, however, these  
20 payments were for construction projects on defendant's personal  
21 residences in Palos Verdes and Encino, California. I.B. also paid  
22 defendant cash kickbacks related to these payments that generally  
23 amounted to approximately \$10,000 each.

24 Defendant also paid N.R., a former girlfriend, \$20,000 per month  
25 out of the Girardi Keese operating account and attempted to conceal  
26 those payments by calling the girlfriend a "legal marketer" when in  
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28 <sup>4</sup> Both I.B. and N.R. testified at the trial of co-defendant  
Girardi. (See Dkt. Nos. 371 at 206-232, 372 at 13-29 & 120-158.)

1 fact she did no work for Girardi Keese at any time. To conceal this  
2 arrangement, defendant instructed N.R. to create register a shell  
3 company N.M., Inc. and open a bank account for the business, into  
4 which defendant could deposit the monthly checks.

5 **III. RESPONSE TO THE PSR**

6 **A. Guidelines Calculations**

7 The United States Probation & Pretrial Services Office  
8 ("Probation") calculated defendant's total offense level as 32 based  
9 on the following factors: base offense level of 7 under U.S.S.G.  
10 § 2B1.1 (a) (1), plus an 22-level increase for a gain of more than  
11 \$25,000,000 but less than \$65,000,000 pursuant to § 2B1.1 (b) (1) (L),  
12 a two-level enhancement for substantial financial hardship under  
13 § 2B1.1(b) (2) (A), a two-level enhancement for sophisticated means  
14 under § 2B1.1(b) (10), a two-level enhancement for vulnerable victim  
15 under § 3A1.1(b) (1), and a two-level enhancement for his role as a  
16 leader/organizer of the side fraud scheme under § 3B1.1(b) (1). These  
17 calculations result in an adjusted offense level 37. (PSR ¶¶ 106-  
18 125.) After adjustments for zero-point offender (-2) and acceptance  
19 of responsibility (-3), defendant's total offense level was reduced  
20 to 32. (PSR ¶¶ 129-134.)

21 Based on a total offense level of 32 and a criminal history  
22 category of I, Probation calculated defendant's guidelines range as  
23 121 to 151 months. (PSR ¶ 192.) In its disclosed recommendation  
24 letter, Probation recommended a custodial sentence of 121 months to  
25 be followed by three years of supervised release, and a restitution  
26 order in the amount of \$2,310,247.26 in the main fraud scheme (23-CR-  
27 47-JLS-2) and \$6,593,077 in the side fraud scheme (23-CR-24-JLS).  
28 (Dkt. 440.)

1 The government agrees with Probation's conclusion that the total  
2 offense level is 32 but reaches that level by slightly different  
3 calculations, as discussed below. The government concurs in  
4 Probation's restitution calculations.

5 **B. The Government's Response to the PSR**

6 The government recommends that defendant be given the benefit of  
7 the bargain in the plea agreement, which caps defendant's guidelines  
8 loss enhancement at +20 (for loss between \$9.5 million and \$25  
9 million) and also recommends that defendant not be granted a zero-  
10 point offender reduction because his offense conduct caused  
11 substantial financial hardship to victims of the main fraud scheme  
12 and to Girardi Keese, the victim of the side fraud scheme.

13 1. Defendant Should Receive a +20 Loss Enhancement  
14 Pursuant to the Plea Agreement

15 The parties agreed in the plea agreement to a loss range between  
16 +18 and +20. (Dkt. 398 ¶ 13.)<sup>5</sup> Defendant agreed that the loss is  
17 "at least \$3.5 million and reserves the right to argue that [loss] is  
18 not higher than \$9.5 million." (Id.) The government "reserves the  
19 right to argue that [loss] is over \$9,500,000 but agrees that it is  
20 less than \$25,000,000". (Id.) The government stands by the  
21 representations in the plea agreement and recommends based on the  
22 facts described supra, Section II, and the PSR ¶¶ 61-72 that the loss  
23 is not over \$25 million for purposes of calculating the guidelines  
24 (Dkt. 398 ¶ 13).

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28 <sup>5</sup> This amount did not include the additional loss related to  
Victim V.A. (PSR ¶ 73), which was confirmed after the charges in the  
above captioned cases were filed.

2. Defendant Should Not Be Given a Two-Point Reduction  
for Zero-Point Offender

Defendant should not be entitled to relief under the zero-point offender section of the guidelines because his criminal conduct caused substantial financial hardship to victims of the main fraud scheme (e.g., Victims 4 and 5) and to the victim of the side fraud scheme (Girardi Keese).

A defendant with no criminal history points qualifies for a two-level decrease in his or her guidelines range provided, in relevant part, that defendant "did not personally cause substantial financial hardship." U.S.S.G. § 4C1.1(a)(6). In determining whether a defendant caused substantial financial hardship, courts look to Application Note 4(F) of the commentary to § 2B1.1 and the non-exhaustive factors listed therein. Examples of such hardship are whether a victim had to make "substantial changes to living arrangements, such as relocating to a less expensive home", or was forced into bankruptcy. U.S.S.G. § 2B1.1, comment. (n.4(F)(ii), (v); see also United States v. Chung, No. 19-CR-00302-JSW-1, 2024 WL 4609597, at \*2 (N.D. Cal. Oct. 29, 2024) (citing U.S.S.G. § 2B1.1.)

Probation reasoned that defendant qualified for the reduction based on a finding that defendant did not have any communication with Victims 4 or 5 and was not necessarily aware of their particular claims. (PSR ¶ 132.) However, nothing in the guidelines requires such direct communication with a victim or knowledge of their individual claims as a predicate for finding that a defendant personally caused financial hardship.

In interpreting "substantial financial hardship", the Ninth Circuit has considered both "but for" and "proximate" causation. See

1 United States v. George, 949 F.3d 1181, 1188 (9th Cir. 2020). By  
2 either measure, defendant's personal actions caused the financial  
3 hardship inflicted on Girardi Keese clients (including Victims 4 and  
4 5) and on Girardi Keese. First, defendant clearly meets the  
5 "relatively undemanding" but-for standard because without defendant's  
6 involvement in managing the Girardi Keese accounting department  
7 during the main fraud scheme, including moving funds at Girardi's  
8 direction and withholding payments from clients at Girardi's  
9 direction, the main fraud would not have occurred or lasted as long  
10 as it did. See George, 949 F.3d at 1187. Moreover, there is no  
11 dispute that defendant was the mastermind of the side fraud and  
12 directed all aspects of its execution, which continued "through at  
13 least in or about December 2020" (Dkt. 398 at 24) until the firm  
14 collapsed into involuntary bankruptcy.

15 Defendant similarly satisfies a proximate cause inquiry in both  
16 the main fraud and side fraud because he (1) was aware that Girardi  
17 was impermissibly withholding and misappropriating client funds (Dkt.  
18 398 at 21), (2) was personally involved in the scheme to misclassify  
19 stolen funds as "fees" drawn on other cases when it was improper to  
20 do so and acknowledged that this practice occurred "frequently" and  
21 that the pattern "got worse over time."<sup>6</sup> (PSR ¶ 93); (3) was aware  
22 that 6.5% "interest payments" to victim 1 were based on a lie that  
23 there was a \$10 million annuity taken out for victim 1 (PSR ¶ 92 and  
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25 <sup>6</sup> Misappropriation of client funds occurred in the four charged  
26 cases in the main fraud scheme, in the Lion Air case, and in other  
27 cases as well. (PSR 93; Trial Exs. 94 (Victim 1 case card register),  
28 245 (Victim 2 case card register), 335 (Victim 3 case card register),  
and 458 (Victims 4 & 5 case card register), see also Dkt. 368 at 182-  
84 (discussing additional misappropriation of client funds) and Dkt.  
377 at 60 (no 6.5% interest bearing account).



Dkt. 377 at 60); (4) knew that Girardi Keese clients (including Victims 4 and 5) were vulnerable because they were susceptible to Girardi's lies and "likely did not have knowledge of the legal system and were unfamiliar with legal settlement procedures" (PSR ¶ 119); (5) that "there was no reason for [Victim 4] to not be paid" (PSR ¶ 90); and (6) conceived of and implemented the side fraud scheme that siphoned millions of dollars from Girardi Keese at the same time that clients and vendors were not being paid and the firm was teetering on the edge of insolvency (Dkt. 398 at 24-25, PSR ¶ 84).

Thus, as in George, the potential for significant adverse consequences to victims (including Victims 4 and 5)<sup>7</sup> and the Girardi Keese law firm itself, as a result of defendant's involvement in both schemes were foreseeable to defendant. See George, 949 F.3d at 1188. The Court should decline to apply a -2 to defendant's guidelines under the zero-point offender provision because defendant's conduct caused substantial financial hardship to victims of both fraud schemes.

Therefore, the government's proposed guidelines calculation appears in the below table.

Base Offense Level:	7	U.S.S.G. § 2B1.1(a)(1)
Specific Offense Characteristics:		
Loss Between \$9,500,000 and \$25,000,000	+20	U.S.S.G. § § 2B1.1(b)(1)(K)
Substantial Financial Harm	+2	U.S.S.G. § 2B1.1(b)(2)(A)
Sophisticated Means	+2	U.S.S.G. § 2B1.1(b)(10)

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<sup>7</sup> Notably, in applying a +2 to defendant's guidelines for causing substantial financial hardship, Probation stated "due to Girardi and [defendant's] conduct", Victims 4 and 5 were "unable to purchase a home that they 'desperately need[ed]' and medical equipment for their paralyzed son", forcing them to stay in their current location. (PSR ¶¶ 114-115) (emphasis added).

Vulnerable Victim	+2	U.S.S.G. § 3A1.1(b)(1)
Leader/Organizer	+2	U.S.S.G. § 3B1.1(c)
Acceptance of Responsibility	-3	U.S.S.G. § 3E1.1(a), (b)
Total Offense Level	32	

This total offense level of 32 is the same as the level recommended by Probation (albeit reached by different means) and results in the same advisory guidelines range, 121 to 151 months. In sum, for the above reasons and the reasons discussed in section IV infra, the government concurs with Probation that defendant should be sentenced to 121 months custody, to be followed by three years supervised release, and a restitution order of \$6,593,077 in case number 23-CR-24, and \$2,310,247.26, in case number 23-CR-47-2-JLS. (Dkt. 400 at 1-2; PSR ¶¶ 203-204).

**C. Government's Response to Defendant's Objections to the PSR**

1. Defendant's Criminal Conduct Groups For Guidelines Purposes

Defendant objects to Probation's grouping of the counts to which defendant pleaded guilty in 23-24-JLS and 24-47-JLS, on grounds that the two offenses are separate and distinct. (Dkt. 75 (in case number 23-24) at 4-6.) The government disagrees and concurs with Probation that defendant's counts of conviction group.

First, the Guidelines allow grouping of counts contained in different charging documents. (See PSR ¶ 103, citing U.S.S.G. § 3D1.1, comment. (n.1).) Second, the main fraud scheme and the side fraud scheme involve misappropriation of funds from the same Girardi Keese bank accounts that defendant oversaw and managed as the head of the firm's accounting department. When the firm's operating

1 accounts were "low," defendant informed Girardi who, in turn,  
2 instructed defendant to replenish the operating accounts with funds  
3 from the firm's trust accounts. (PSR ¶ 24.) As the Court noted in  
4 the denial of defendant's motion in limine to exclude evidence of the  
5 side fraud scheme from Girardi's trial, "the two schemes alleged in  
6 [the side fraud] case and the main case are closely aligned." (Dkt.  
7 235 at 5.) Indeed, the main scheme "provided the funds used by both  
8 Defendants, including funds that facilitated Defendant Kamon's  
9 alleged side scheme." (Id.) Although the side fraud scheme involved  
10 thefts from the Girardi Keese operating accounts while the main fraud  
11 scheme focused on the firm's client-trust accounts, "this distinction  
12 is near meaningless in the context of these cases, which allege  
13 widespread fraud and non-compliance with accounting principles on a  
14 fundamental level." (Id. at 6.) In sum, the "two Defendants are  
15 alleged to have worked together in key executive positions at the  
16 same law firm, they face the same charges, the charged conduct  
17 relates to the misuse of funds in the bank accounts of the same law  
18 firm, and the alleged side scheme has a complete temporal overlap  
19 with the alleged main scheme." (Id. at 7.) Grouping is warranted  
20 here.<sup>8</sup>

21 2. Defendant's Challenge to the PSR's Loss Calculations  
22 Lack Merit

23 Defendant also challenges Probation's loss calculation in the  
24 PSR. (Dkt. 75 at 7-8.) Defendant's arguments against the PSR's loss  
25 findings are that they do not credit him for lulling payments and  
26 result in double counting. Both arguments lack merit.

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27  
28 <sup>8</sup> Defendant also raises a "double counting" argument that is  
addressed in the next section.

1 First, as discussed in the previous section, defendant's counts  
2 of conviction are properly grouped. Moreover, although the operating  
3 accounts were replenished with funds from the client trust accounts,  
4 the trust accounts also contained millions of dollars in commingled  
5 funds from a variety of sources including Girardi's personal funds,  
6 funds from the liquidation of Girardi real property, and loans from  
7 litigation lenders. (PSR ¶¶ 82, 87.) There is no double counting  
8 because Girardi Keese was entitled to more than the \$6 million that  
9 defendant stole from the operating accounts in the side fraud scheme  
10 based on the attorney's fees and costs that were due to the firm from  
11 the four charged defendants in this case alone. (See PSR ¶¶ 62  
12 (Girardi Keese entitled to approximately \$15.75 million from Victim  
13 1), 65 (\$170,000 from Victim 2), 68 (\$37,000 from Victim 3), 70  
14 (\$5.95 million from Victims 4 & 5).)

15 Furthermore, the harm to Girardi Keese from the side fraud is  
16 separate and distinct from the harm suffered by the firm's clients  
17 due to the main fraud. See United States v. Pham, 545 F.3d 712, 717  
18 (9th Cir. 2008) (where victims suffer "distinct wrongs" as a result  
19 of a defendant's criminal conduct "and if accounting for those  
20 distinct wrongs is necessary to make the defendant's sentence reflect  
21 the full extent of the wrongfulness of his conduct, then we hold that  
22 it is not impermissible double counting to consider both groups as  
23 victims even if their losses are ultimately traceable to the same  
24 fraudulently obtained funds.") (cleaned up). Here, in light of the  
25 serious consequences suffered by the two sets of victims and the need  
26 for defendant's sentence to reflect the full extent of his wrongful  
27  
28

1 conduct, it is not double counting, even if some illegal proceeds of  
2 the side fraud overlap with stolen client money from the main fraud.<sup>9</sup>

3 Second, although lulling payments were made to victim-clients,  
4 they were sourced from other funds, not their actual settlements, and  
5 so they should not be credited against loss for guidelines purposes.  
6 (PSR ¶ 74 n.2.)<sup>10</sup> That lulling payments were made after defendant had  
7 stolen the victims' settlement funds and came after the victims made  
8 repeated efforts and requests to be paid<sup>11</sup> militates against such  
9 credit because such payments serve no other purpose but to prolong  
10 the fraud scheme and avoid detection, as is the case with all Ponzi  
11 schemes. A defendant is not entitled to a credit when the  
12 defendant's objective in repaying a victim is to perpetuate ongoing  
13 fraud. See, e.g., United States v. Callaway, 762 F.3d 754, 759-60  
14 (8th Cir. 2014) (payments to victim were "necessary to give  
15 [defendant's] scheme a veneer of legitimacy"); see also United States  
16 v. Stochel, 901 F.3d 883, 890-91 (7th Cir. 2018) (defendant not  
17 entitled to offset where he paid some funds towards genuine  
18 receivership expenses because they were made to conceal and "were  
19 essentially the cost of perpetuating the scheme"). Therefore, there  
20 is no basis to reduce defendant's loss by the amount of lulling  
21 payments.

22 Finally, as discussed above, defendant should be given the  
23 benefit of his bargain related to loss in his plea agreement and,  
24

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25 <sup>9</sup> The government does not concede that there is any overlap in  
26 stolen funds.

27 <sup>10</sup> These lulling payments may be (and have been) counted toward  
28 defendant's restitution obligation.

<sup>11</sup> See Dkt. Nos. 364 at 153 (Victim 1), 364 at 240 (Victim 2),  
366 at 56 (Victim 3), and 368 at 70-71 (Victim 4).

1 thus, the government respectfully requests that defendant's loss  
2 amount for guidelines purposes should be limited to below  
3 \$25,000,000. (Dkt. 398 ¶ 13.)

4 **IV. SECTION 3553(a) FACTORS**

5 The Court should impose a sentence sufficient, but not greater  
6 than necessary, to reflect the purposes of sentencing identified in  
7 18 U.S.C. § 3553(a). United States v. Carty, 520 F.3d 984, 991 (9th  
8 Cir. 2008). The advisory Guidelines range provides the "starting  
9 point and . . . initial benchmark" for this Court's consideration of  
10 an appropriate sentence. Molina-Martinez v. United States, 136 S.  
11 Ct. 1338, 1345 (2016) (quoting Gall v. United States, 552 U.S. 38, 49  
12 (2007)). Although the Guidelines are not binding, they "reflect a  
13 rough approximation of sentences that might achieve section 3553(a)'s  
14 objectives." United States v. Rita, 551 U.S. 338, 350 (2007).

15 Under 18 U.S.C. § 3553(a), in arriving at the appropriate  
16 sentence, the Court should consider, among other factors, the nature  
17 and circumstances of the offense and the history and characteristics  
18 of the defendant, § 3553(a)(1); the need for the sentence imposed to  
19 reflect the seriousness of the offense, to promote respect for the  
20 law, and to provide just punishment for the offense, § 3553  
21 (a)(2)(A); the need for the sentence imposed to afford adequate  
22 deterrence to criminal conduct, § 3553(a)(2)(B); the need for the  
23 sentence imposed to protect the public from further crimes of the  
24 defendant, § 3553(a)(2)(C); the kinds of sentences available,  
25 § 3553(a)(3); and the need to avoid unwarranted sentence disparities,  
26 § 3553(a)(6).

1 In light of the relevant § 3553(a) factors, a 121-month  
2 custodial sentence is sufficient, but not greater than necessary, to  
3 achieve the goals of sentencing here.

4 1. Nature and Circumstances of the Offense (18 U.S.C. §  
5 3553 (a)(1))

6 Defendant's participation in two fraud schemes that resulted in  
7 tens of millions of dollars of losses to victims is serious conduct  
8 that warrants a significant custodial sentence. Defendant's  
9 complicity in the main fraud scheme enabled Girardi to perpetrate and  
10 conceal the fraud for years. Without defendant in his accounting  
11 department, Girardi would not have been able to carry on the Ponzi-  
12 like shuffle of new client money to pay old clients for nearly as  
13 long. Indeed, defendant played the part of Girardi's "guy in  
14 accounting" to the fullest. He did not raise questions and he did  
15 not object when Girardi told him to break the rules governing client  
16 trust accounts by taking out more fees than were due. When Girardi  
17 said "do it anyways", defendant did just that despite knowing that  
18 the trust account should be used to pay clients and draw only the  
19 appropriate fees and costs for the firm. (PSR ¶¶ 24, 87.)

20 Defendant's willingness to follow Girardi's directions and withhold  
21 payments from clients in order to transfer money to the firm's  
22 operating accounts (PSR ¶ 93), and even make payments directly out of  
23 the trust accounts to pay personal expenses like jewelry or purses  
24 for Girardi's wife (PSR ¶ 89) evinces utter disregard for the welfare  
25 of the firm's clients and a desire to put Girardi's interests, and by  
26 extension his own interests, first. The devastating impact that the  
27 main fraud had on Girardi Keese victim-clients is apparent from the  
28 impact statements included with the government's sentencing position

1 for co-defendant Girardi. (See Dkt. 428, Ex. 1.) To be fair, the  
2 fact that defendant was taking orders from Girardi, his boss and a  
3 powerful attorney, in carrying out the main fraud is mitigating.  
4 Moreover, there is no evidence that defendant ever directly lied to  
5 clients, like Girardi did. And defendant ultimately accepted  
6 responsibility for his crimes and pleaded guilty.

7 But defendant's cynical side fraud, although perhaps not  
8 unexpected (indeed defendant learned how to lie and manipulate from  
9 the master thief—Girardi), compounds the seriousness of his criminal  
10 conduct. Defendant pilfered the Girardi Keese operating accounts at  
11 the same time the firm was having financial difficulties and  
12 defrauded clients were clamoring to be paid settlement funds that, in  
13 some instances, had been due to them for years. Defendant's side  
14 fraud was motivated by greed, plain and simple, and the desire to  
15 make extravagant expenditures for his personal benefit, including  
16 luxury cars, renovations on two residences, private air travel,  
17 gambling, and payments to his girlfriend.

18 In sum, defendant's complicity in the main fraud and willingness  
19 to engage in a fraud-within-a-fraud compounds his culpability and  
20 warrants a meaningful custodial sentence.

21 2. History and Characteristics of the Defendant (18  
22 U.S.C. § 3553 (a)(1))

23 Defendant's history and characteristics evince an upbringing  
24 where defendant had many advantages. He had a "typical" and "normal"  
25 childhood with close family connections and support. (PSR ¶ 151.)  
26 Defendant was a good student for whom "school was easy" and, although  
27 his family encountered financial struggles, defendant had the  
28 potential to channel his aptitude for math into a meaningful life.



1 But he chose another path. Defendant's reference to his promotion to  
2 head of accounting at Girardi Keese as a "turning point" carries with  
3 it a bitter irony in that it coincides with his descent into criminal  
4 activity. Defendant's health issues and family turmoil provide  
5 mitigating context (PSR 152-155) but ultimately are no excuse for his  
6 criminal conduct.

7 In addition to his convictions in this case, defendant is  
8 charged separately (along with Girardi and another senior Girardi  
9 Keese attorney) with wire fraud in the Northern District of Illinois  
10 for aiding and abetting the similar misappropriation of client  
11 settlement funds related to the Lion Air crash. (See United States  
12 v. Girardi et al., case number 23-CR-54, N.D. Ill.) That case is  
13 still pending.

14 Defendant's acceptance of responsibility in this case is a  
15 significant mitigating circumstance; however, despite agreeing to a  
16 money judgement of forfeiture in the amount of \$3.1 million,  
17 defendant has to date opposed the Girardi Keese bankruptcy trustee's  
18 efforts to forfeit a \$2.4 million luxury residence in the Bahamas and  
19 similarly refused to assist in the recovery of funds held in a  
20 Bahamian bank account to satisfy that obligation. (See Exhibit 1 to  
21 the Paetty Declaration attached hereto; see also Dkt Nos. 2277, 2309,  
22 and 2338, In re Girardi Keese, 20-bk-21022-BR (C.D. Cal.).)  
23 Defendant's efforts to impede liquidation of his assets to satisfy  
24 his pending restitution obligation are concerning and amplify the  
25 risk of recidivism.

26 3. Seriousness of the Offense, Respect for the Law, Just  
27 Punishment, and Deterrence (18 U.S.C. § 3553 (a)(2))

28 The seriousness of defendant's criminal conduct, the need for

1 general deterrence, to promote respect for the law, and to provide  
2 just punishment further justify a guidelines sentence of 121 months.  
3 Defendant aided and abetted Girardi for many years and then doubled  
4 down on that crime by concocting the side fraud scheme, which was  
5 motivated solely by defendant's greed and desire to live an  
6 extravagant lifestyle. These callous actions underscore the  
7 seriousness of defendant's offenses.

8 A significant sentence is also warranted here to deter  
9 individuals who oversee client-trust accounts, which are by nature  
10 (and name), the most sacrosanct bank accounts in the legal industry.  
11 Individuals, like defendant, who handle these accounts should be made  
12 aware that fraudulent conduct related to these accounts and sensitive  
13 financial information associated with them will have serious  
14 consequences. Defendant's unwillingness to assist in the forfeiture  
15 proceedings, as discussed in the previous section, also raises the  
16 question of whether defendant is a risk for recidivism.

17 In sum, a sentence of 121 months is necessary to reflect the  
18 seriousness of the offense, promote respect for the law, afford  
19 adequate deterrence, and provide just punishment for defendant's  
20 crimes.

21 4. The Kinds of Sentences Available, the Sentencing Range  
22 Established by the Sentencing Guidelines, and the Need  
23 to Provide Defendant Necessary Medical Care and Avoid  
24 Unwarranted Sentence Disparities (18 U.S.C. § 3553  
25 (a) (2), (3), (4), and (6))

26 The government's recommended sentence is within the guidelines  
27 range for defendant's criminal conduct. Moreover, it is commensurate  
28 with the government's recommended sentence (168 months) for defendant

1 Girardi. Defendant's involvement in the side fraud is certainly an  
2 aggravating circumstance; however, there is no evidence that  
3 defendant engaged in the elaborate and devious lies that Girardi told  
4 his clients to further the main fraud. And, although not an excuse,  
5 the main fraud scheme provides the framework that made the side fraud  
6 possible. Put another way, Girardi's cunning and cavalier theft of  
7 funds from the trust accounts made criminality commonplace at Girardi  
8 Keese by normalizing aberrant and abhorrent behavior. In doing so,  
9 Girardi cultivated an environment that fostered defendant's side  
10 fraud. To be clear, that is not a mitigating fact, but it provides  
11 context for the relative culpability of Girardi and defendant and  
12 supports the government's 121-month recommendation here. Moreover,  
13 defendant pleaded guilty and should be afforded the benefit of his  
14 acceptance of responsibility and the agreed upon low-end guidelines  
15 sentence in his plea agreement. The recommended sentence here will  
16 not result in unwarranted sentencing disparities when compared to the  
17 government's recommendation for co-defendant Girardi.

18 **V. RESTITUTION AND FORFEITURE**

19 Under the Mandatory Victims Restitution Act, restitution is  
20 mandatory in this case. (PSR ¶ 203.) The government agrees with the  
21 restitution amounts and schedule found by Probation. (See PSR  
22 ¶¶ 109, 203-204.) Specifically, restitution in the amount of  
23 \$8,903,324.26 should be ordered, to be paid as described in the PSR.  
24 (PSR ¶¶ 203-204.) The United States will seek forfeiture, as alleged  
25 in the indictment, and to that end the Court has ordered a money  
26 judgment of forfeiture against defendant in the amount of \$3,100,000  
27 (Dkt. 453.)  
28

1 **VI. CONCLUSION**

2 For the foregoing reasons, the government respectfully requests  
3 that this Court sentence defendant to 121 months imprisonment, a  
4 restitution order in the total amount of \$8,903,324.26 (divided  
5 between the two cases in which he pleaded guilty), three years of  
6 supervised release, and a special assessment of \$200.

7 Dated: March 28, 2025

Respectfully submitted,

8 JOSEPH T. MCNALLY  
Acting United States Attorney

9 LINDSEY GREER DOTSON  
10 Assistant United States Attorney  
11 Chief, Criminal Division

12 /s/  
13 SCOTT PAETTY  
Assistant United States Attorney

14 Attorneys for Plaintiff  
15 UNITED STATES OF AMERICA  
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1 The undersigned, counsel of record for the government, certifies  
2 that this brief contains 5,900 words, which complies with the word  
3 limit of L.R. 11-6.1.

4 Dated: March 28, 2025

Respectfully submitted,

5 JOSEPH T. MCNALLY  
6 Acting United States Attorney

7 LINDSEY GREER DOTSON  
8 Assistant United States Attorney  
9 Chief, Criminal Division

10 /s/  
SCOTT PAETTY  
Assistant United States Attorneys

11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA  
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**DECLARATION OF SCOTT PAETTY**

I, Scott Paetty, being duly sworn, declare and state as follows:

1. I am an Assistant United States Attorney with the United States Attorney's Office for the Central District of California. I am the attorney assigned to the following cases: United States v. Girardi et al., No. CR 23-47-JLS and United States v. Kamon, CR 23-24-JLS.

2. Exhibit 1 is a true and correct copy of a letter from Elissa Miller, the Chapter 7 Bankruptcy Trustee of the Girardi Keese law firm. This letter is provided to the Court pursuant to the government's obligations under the Crime Victims Rights Act. It has been produced to defendant and Probation

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and that this declaration is executed at Los Angeles, California, on March 28, 2025.



SCOTT PAETTY